

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

-v.-

BERNARD L. MADOFF,

Defendant.
-----X

TENTH FINAL ORDER OF
FORFEITURE AS TO CERTAIN
SPECIFIC PROPERTIES

09 Cr. 213 (DC)

BACKGROUND
The Criminal Proceedings

WHEREAS, on or about June 26, 2009, the Court entered a Preliminary Order of Forfeiture (Final as to the Defendant) (the "Preliminary Order") as to BERNARD L. MADOFF, the defendant ("MADOFF" or the "defendant"), which is incorporated herein by reference as if set out in full;

WHEREAS, on June 29, 2009, the Court sentenced the defendant to, *inter alia*, 150 years' imprisonment and criminal forfeiture in accordance with the terms of the Preliminary Order;

WHEREAS, in the Preliminary Order, the Court imposed an aggregate money judgment upon the defendant in the amount of \$170.799 billion (\$170 billion as to the First Forfeiture Allegation and \$799 million as to the Second Forfeiture Allegation), and ordered the defendant to forfeit all of his right, title and interest in any and all property and other interests belonging to, owed to or controlled in whole or in part by the defendant, and all property traceable to such property, including, but not limited to, all right, title and interest of the defendant in, *inter alia*, the following property:

1. Any and all ownership interest held in the name of Ruth Madoff and/or Bernard Madoff in the assets of any and all corporations, partnerships or other entities, and/or their subsidiaries, affiliates and joint ventures including;

WHEREAS, the Government identified the following assets of the defendant:

- a. 17 Certificates of Membership under Bernard L. Madoff Investment Securities LLC for the Cincinnati Stock Exchange which was seized from Bernard L. Madoff Investment Securities LLC on June 30, 2009 at c/o The Cincinnati Stock Exchange, 49 East 4th Street, located in Cincinnati, OH ("Madoff Investment Securities Certificates");
- b. 50,000 Shares of Royal Acceptance Corporation stock held in the name of Norman Levy CUSIP #78004R201 seized from Bernard Lawrence Madoff on June 30, 2009 at 885 Third Avenue, 17th Floor, New York, NY ("Royal Acceptance Shares");
- c. Any and all shares from Capital Gold Corporation, a Delaware and NY registered company that merged with Gammon Gold Inc. on 4/1/2011, seized from Edward J. Heaney and Bernard L. Madoff ("Capital Gold Shares");

(collectively, a-c the "Specific Property");

The Stipulation and Order as to Ruth Madoff

WHEREAS, on June 26, 2009, the Court endorsed a Stipulation and Order between the United States Attorney's Office for the Southern District of New York and the defendant's wife, Ruth Madoff, the terms of which included Ruth Madoff's consent to the forfeiture and relinquishment of all claims to the Specific Property.

The Ancillary Proceedings as to the Subject Property

WHEREAS, the provisions of 21 U.S.C. § 853(n) and Rule 32.2(b) of the Federal Rules of Criminal Procedure require publication and notice to third parties known to have alleged an interest in forfeited property and the disposition of any petitions filed under Section 853(n)

before the United States may have clear title to such property;

WHEREAS, the Preliminary Order directed the United States to publish and provide notice to third parties known to have alleged an interest in the forfeited property, including the Specific Property, pursuant to 21 U.S.C. § 853(n)(1), 18 U.S.C. § 982(b)(1), and Fed. R. Crim. P. 32.2(b);

WHEREAS, a first notice of the Preliminary Order and the intent of the United States to dispose of the Royal Acceptance Shares was published on www.forfeiture.gov, the official United States government internet site, beginning on July 19, 2019, and for thirty consecutive days thereafter, pursuant to Rule G(4)(a)(iv)(c) of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions, and proof of publication was filed on November 6, 2019 (D.E. 204);

WHEREAS, a first notice of the Preliminary Order and the intent of the United States to dispose of the Madoff Investment Securities Certificates and the Acro Energy Shares was published on www.forfeiture.gov, the official United States government internet site, beginning on June 15, 2019, and for thirty consecutive days thereafter, pursuant to Rule G(4)(a)(iv)(c) of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions, and proof of publication was filed on November 6, 2019 (D.E. 203);

WHEREAS, a first notice of the Preliminary Order and the intent of the United States to dispose of the Capital Gold Shares was published on www.forfeiture.gov, the official United States government internet site, beginning on March 8, 2019, and for thirty consecutive days thereafter, pursuant to Rule G(4)(a)(iv)(c) of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions, and proof of publication was filed on November

6, 2019 (D.E. 205);

WHEREAS, on or about May 23, 2019, notice of the Preliminary Order of Forfeiture was sent by FedEx, return receipt requested, to:

Corporation Service Company
251 Little Falls Drive
Wilmington, DE 19808

Christopher Chipman
Chief Executive Officer
Capital Gold Corporation
76 Beaver Street
New York, NY 10005

(collectively, the "Noticed Parties")

WHEREAS, 21 U.S.C. § 853(n)(7) provides that, following the disposition of all petitions, the United States shall have clear title to the forfeited property;

WHEREAS, no claims or answers have been filed or made as to the Specific Property in this action, no other parties have appeared to contest the action to date, and the requisite time periods have expired; and

WHEREAS, the Defendant and Noticed Parties are the only persons and/or entities known by the Government to have a potential interest in the Specific Properties.

WHEREAS, the Government is therefore entitled to entry of a Final Order of Forfeiture forfeiting to the United States of America all right, title and interest in the Specific Property;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT:

1. All right, title and interest in the Specific Property is hereby forfeited to the United States of America for disposition according to law.

2. Pursuant to 21 U.S.C. § 853(n)(7), the United States shall and is hereby deemed to have clear title to the Specific Property.

3. The United States Marshal Service shall take possession of the Specific Property and dispose of the Specific Property in accordance with 21 U.S.C. § 853(n).

4. Nothing in this Tenth Final Order of Forfeiture as to Certain Specific Properties shall affect any property subject to the Preliminary Order of Forfeiture other than the Specific Property, or any petition asserting an interest in any such property.

5. The Court retains jurisdiction to take additional action, enter further orders, and amend this and any future orders as necessary to implement and enforce this Tenth Final Order of Forfeiture as to Certain Specific Properties.

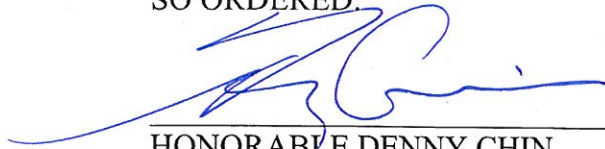
6. The Clerk of the Court shall forward three certified copies of this Tenth Final Order of Forfeiture as to Certain Specific Properties to Assistant United States Attorney Alexander Wilson, Co-Chief of the Money Laundering and Transnational Criminal Enterprises Unit, One St. Andrew's Plaza, New York, New York, 10007.

Dated: New York, New York

~~November 27, 2019~~

December 3,

SO ORDERED:



HONORABLE DENNY CHIN
UNITED STATES CIRCUIT JUDGE
SITTING BY DESIGNATION